IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 15894 of 2004

Between:

Althianna Sangoda Gounder , S/o Althianna Gounder,
Balasubramaiar Sago Factory, Althanur village,

Rasipuram Taluk, Salem District.

... PETITIONER

AND

1 Inspector, Prohibition and Excise, Rajahmundry,

E.G. District.
2 Deputy Commissioner, Prohibition and Excise,

Kakinada, E.G. District.
3 The S.H.O., I Town Police Station, Rajahmundry,

E.G. District
(R 3 is impleaded as per Court order dt. 27-10-2004)

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, directing the respondents to permit the petitioner to furnish an undertaking instead of bank guarantee for Rs. 1,75,000/- for the value of the vehicle bearing Lorry No. TN-28Z-0324 till the disposal of the case in C.C.No. 866/2000 pending on the file of II Addl. J.F.C.M. Rajahmundry, or in alternative permit the petitioner to furnish bank guarantee in favour of the 2nd respondent till the disposal of inquiry under Sec. 46 of the Excise Act and for a consequential order directing the respondents not to take any further steps pursuant to the letter dt. 11-6-2004.

Counsel for the Petitioner: MR.CH.DHANAMJAYA

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the admission stage made the following :

O R D E R:

The vehicle of the petitioner was seized on the ground that it is involved in an offence under the A.P.Excise Act. The vehicle was released by the second respondent, on the petitioner furnishing bank guarantee for a sum of Rs.1,75,000/-. The case is since said to have been made over to the Court of II Additional Judicial Magistrate of First Class, Rajahmundry. The grievance of the petitioner is that though the crime was registered way back in the year 1995, it was not disposed of so far, and in the mean while, the petitioner is deprived of the interest that has accrued upon the deposit made by him in the bank for securing the guarantee. He seeks appropriate directions in this regard.

Heard learned counsel for the petitioner and the learned Government Pleader for Home.

It is rather surprising that a case registered in the year 1995 has not been disposed of so far. In a way, it constitutes a sad reflection on the speed at which the cases are being disposed of by the concerned authorities. The petitioner had furnished bank guarantee for a sum of Rs.1,75,000/-, in the year 1995, as a condition precedent for release of the vehicle. The petitioner states that he has deposited the entire amount with the bank, for the purpose of securing the guarantee. It is also contended that he has not been paid the interest on the ground that the guarantee is being renewed from time to time.

As long as the guarantee for the sum specified by the second respondent is intact, the petitioner cannot be denied the benefit of interest on the amount accrued thereon. There does not exist any justification for keeping the proceedings pending for such a long time.

Hence, the writ petition is disposed of, directing that;

a. The II Additional Judicial Magistrate of First Class, Rajahmundry shall dispose of the proceedings against the petitioner, within four weeks from the date of receipt of a copy of this order.

b. The petitioner shall be entitled to withdraw or otherwise enjoy the benefit of the interest, if any, that has accrued on the amount deposited by him while securing the guarantee from the bank. There shall be no order as to costs.

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20th December, 2004

pan

To

1 Inspector, Prohibition and Excise, Rajahmundry,

E.G. District.
2 Deputy Commissioner, Prohibition and Excise,

Kakinada, E.G. District.
3 The S.H.O., I Town Police Station, Rajahmundry,

E.G. District.
4 Two C.Cs to the Govt.Pleader for Home,

High Court buildings, Hyderabad (OUT).

5 Two CD copies